IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ANITA RODGERS

and

LEON HAYWOOD SR.

Plaintiffs,

v.

THE MISSOURI STATE HIGHWAY PATROL,
Serve: Colonel Sandra K. Karsten
1510 E. Elm Street
Jefferson City, MO 65102

THE CITY OF PEVELY MISSOURI,
Serve: Mayor Stephanie Haas
401 Main Street
Pevely, MO 63070

RONALD REPLOGLE, in his official capacity as former superintendent of the Missouri Highway Patrol,
Serve: 1510 E. Elm Street
Jefferson City, MO 65102

BRENT J. FOWLER, in his individual capacities,
Serve: MO Hwy Patrol Troop C
891 Technology Drive
Weldon Springs, MO 63304

BENJAMIN LITTERALL, in his individual capacities,
Serve: PEVELY POLICE DEPT.
401 Main Street
Pevely, MO 63070

Case No.

JURY TRIAL DEMANDED

KYLE WEISS, in his individual
capacities, and
Serve: PEVELY POLICE DEPT.
401 Main Street
Pevely, MO 63070

BRIAN BENJAMIN, in his individual
capacities,
Serve: PEVELY POLICE DEPT.
401 Main Street
Pevely, MO 63070

Defendants.

COMPLAINT

Plaintiffs ANITA RODGERS and LEON HAYES SR, for their complaint against Defendants state as follows:

INTRODUCTION

1. This is a civil rights action for damages brought under 42 U.S.C. §§ 1983 and 1988, the Fourth and Fourteenth Amendments to the United States Constitution, and under the laws of the State of Missouri. Plaintiff Anita Rodgers and Plaintiff Leon Haywood Sr. are the natural parents of Mr. Leon Haywood Jr. who was a lawful passenger in a Ford Explorer that was stopped for an alleged misdemeanor traffic infraction by the Missouri State Highway Patrol on May 11, 2014. Although Leon Haywood Jr. fully submitted to police authority, the 18-year-old driver of the Ford Explorer fled. A high-speed pursuit was initiated by the Highway Patrol, later joined by three officers for the City of Pevely. The pursuit lasted over one-quarter hour, spanning a distance of over 25 miles, at increasing speeds up to 130 miles per hour, and passing approximately 150 third-party vehicles. Dangerous maneuvers by police and the fleeing driver escalated during the course of chase until pursuit ended in a rollover crash in

which Mr. Leon Haywood Jr., another passenger and the driver were ejected and killed. Plaintiffs allege that referable to Leon Haywood Jr., the law enforcement Defendants made an unreasonable seizure of his person, subjected him to state-created dangers, and demonstrated deliberate indifference to his safety and/or a purpose to cause his harm. Plaintiff further alleges that Defendants were negligent in the conduct of the high-speed pursuit, and such negligence actually and proximately caused the crash that killed Leon Haywood Jr.

PARTIES

2. Plaintiffs Anita Rodgers and Leon Haywood Sr. are adult residents of the State of Missouri and the natural parents of Leon Haywood Jr., and as such are entitled under the Missouri Wrongful Death Act, Section 537.080 R.S.Mo (2000) to pursue a wrongful death action for the death of Leon Haywood Jr. on May 11, 2014.

3. Defendant Missouri State Highway Patrol is an agency of the State of Missouri, and the employer of Defendant Brent Fowler.

4. Defendant Ronald Replogle was at all relevant times herein the Superintendent of the Missouri State Highway Patrol, and charged with the responsibility for operations of the Missouri State Highway Patrol as well as the hiring, training, and supervision of personnel. Upon information and belief, he was the ultimate policymaker for the Missouri State Highway Patrol.

5. Defendant City of Pevely Missouri, is a municipal organization existing under the laws of the State of Missouri, located in Jefferson County, Missouri. Defendant City of Pevely Missouri, operates the Pevely Police Department and is the employer of Defendants Benjamin Litterall, Kyle Weiss, and Brian Benjamin.

6. Individual defendants are sworn law enforcement officers in the State of Missouri.

7. Each defendant acted under color of state law at all times relevant here.

JURISDICTION AND VENUE

8. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 over Plaintiff's cause of action arising under the Constitution of the United States and 42 U.S.C. § 1983. This Court has supplemental jurisdiction over Plaintiffs' cause of action arising under Missouri state law pursuant to 28 U.S.C. § 1367.

9. Venue lies in the United States District Court for the Eastern District of Missouri because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in Jefferson County, Missouri. 28 U.S.C. 1391(b)(2).

10. Divisional venue is in the Eastern Division because the events leading to the claim for relief arose in Sainte Genevieve and Jefferson Counties, Missouri. E.D.Mo. L.R. 2.07(A)(1), (B)(2).

FACTS

11. On May 11, 2014, Corporal Brent Fowler of the Missouri State Highway Patrol initiated a traffic stop of a Ford Explorer on northbound Interstate 55 in Sainte Genevieve County.

12. The original alleged offense of the Ford Explorer was a traffic infraction.

13. The Ford Explorer was driven by 18-year-old Jeromy Goode.

14. Mr. Leon Haywood Jr. was one of three passengers in the Ford Explorer.

15. Mr. Leon Haywood Jr. was not violating any law. Defendants had no knowledge or belief that Mr. Leon Haywood Jr. was violating any law at any time relevant.

16. The presence of passengers in the Ford Explorer was known to Corporal Fowler at the time of the traffic stop, who initially identified them as "black males."

17. The presence of passengers in the Ford Explorer was known by all other Defendants at all times relevant.

18. When Corporal Fowler initiated the traffic stop, the Ford Explorer came to a full and complete stop on the side of the road.

19. The Ford Explorer then fled. Corporal Fowler initiated pursuit.

20. After approximately ten minutes of pursuit, Corporal Fowler was advised by Troop Headquarters that, "We are done. We are terminating if he [the Ford Explorer] is driving like that [driving between two third-party vehicles]." Despite this, Corporal Fowler continued pursuit.

21. Upon information and belief, the Missouri State Highway Patrol did not request the assistance of the Pevely Police Department or its officers in the pursuit.

22. Pevely Patrolman Litterall intervened and joined pursuit in Herculaneum, Mo.

23. Herculaneum, Mo., is outside the jurisdiction of Pevely Missouri.

24. At that time, Patrolman Litterall observed the Ford Explorer to be swerving erratically in and out of traffic, nearly causing several accidents.

25. Pevely Sergeant Kyle Weiss intervened and joined pursuit in Pevely Missouri.

26. Pevely Patrolman Brian Benjamin intervened and joined pursuit in Pevely Missouri.

27. Sergeant Weiss' radio malfunctioned during the pursuit, severing his communication with the other units. Sergeant Weiss continued pursuit despite this.

28. As pursuit progressed, the vehicles entered increasingly more populous areas.

29. As pursuit progressed, traffic density increased.

30. As pursuit progressed, the speed of the participating vehicles increased.

31. As pursuit progressed, officers utilized increasingly more dangerous tactics.

32. As pursuit progressed, Corporal Fowler and Patrolman Litterall repeatedly pursued the Ford Explorer so closely that they could not ensure proper time and braking distance.

33. As pursuit progressed, the Ford Explorer's drove at higher speeds and in an increasingly hazardous manner.

34. As pursuit progressed, the Ford Explorer's driving became increasingly erratic in response to law enforcement.

35. Law enforcement deployed spike strips, causing the Ford Explorer to swerve wildly, forcing third-party vehicles onto the shoulder and nearly causing collisions. Pursuit continued.

36. Law enforcement had no reasonable expectation of safely stopping the Ford Explorer through continued pursuit.

37. Approximately 150 third-party vehicles were passed during the pursuit, the majority of which were passed in the final five minutes.

38. Police vehicles reached speeds up to 130 miles per hour during the pursuit.

39. Pursuit did not end until the Ford Explorer attempted to exit Interstate 55 at Imperial Main Street, traveling at high speed and followed by Patrolman Litterall. The Ford Explorer exited the roadway, lost control, rolled several times and crashed.

40. Mr. Leon Haywood Jr. sustained physical injuries in the crash causing his immediate death at the accident site.

41. The total pursuit lasted for more than a quarter hour.

42. The pursuit covered over twenty-five miles of interstate highway, beginning in rural Ste. Genevieve County and extending into the more populous Greater St. Louis Metropolitan Area.

43. Defendants had ample opportunity for deliberation during the pursuit.

44. Four law enforcement vehicles were in pursuit immediately prior to the crash.

45. Mr. Leon Haywood Jr. completely submitted to all displays of authority and force by law enforcement at all times relevant. Mr. Leon Haywood Jr's freedom of movement was completely restricted by law enforcement's shows of authority, shows of force, application of force, and the foreseeable reactions of third parties to the actions of Defendants.

46. Northbound Interstate 55 at the Imperial Main Street exit is an open and public roadway in Jefferson County, Missouri, and outside the jurisdiction of Pevely Missouri.

COUNT I
Negligence Under Missouri Common Law
Against Defendants Missouri State Highway Patrol, City of Pevely, Fowler, Litterall, Weiss, and Benjamin

47. Plaintiffs re-allege and incorporate by reference all preceding paragraphs.

48. Defendants Fowler, Litterall, Weiss, and Benjamin ("Individual Defendants") acted in concerted action and in breach of a common duty, such that defendants are joint tortfeasors.

49. At all times mentioned herein, under the laws of Missouri and the policies of the Missouri State Highway Patrol and Pevely Police Department, the Individual Defendants owed duties to Mr. Leon Haywood Jr. to operate their motor vehicles in a careful and prudent manner and to exercise the highest degree of care.

50. The Individual Defendants each failed to exercise the highest degree of care, and were thereby negligent, in one or more of the following respects:

a. Participated in and continued a high speed pursuit with no reasonable expectation for safely stopping the pursued vehicle,

b. Continued pursuit when the level of risk associated with pursuit outweighed the necessity of immediate apprehension of the suspect,

c. Continued pursuit by Corporal Fowler after being directed by a superior that "We are done,"

d. Failed to comply with relevant police pursuit policies and procedures,

e. Continued pursuit and failed to request assisting officers discontinue pursuit when the assisting officers' tactics did not conform to relevant police pursuit policies and procedures,

f. Continued pursuit without effective and reliable communication with Sergeant Weiss,

g. Exceeded the prima facie speed limit such that the driver endangered life and property,

h. Failed to comply or exceeded emergency vehicle traffic law exceptions allowed under RSMO § 304.022(5),

i. Engaged in and escalated unduly hazardous driving maneuvers, including failure to maintain a safe driving distance and driving at unreasonable speeds based on the totality of circumstances,

j. Repeatedly and knowingly provoked increasingly hazardous driving by the pursued vehicle,

k. Acted in gross, knowing, and deliberate disregard to the safety and welfare of the general public, including the safety of Mr. Leon Haywood Jr.,

l. Otherwise failed to exercise the highest degree of care in operation of their motor vehicles, and

m. Otherwise failed to exercise ordinary care in conducting a police pursuit.

51. Mr. Leon Haywood Jr. sustained injuries as the direct and proximate result of the negligence and policy violations of the Individual Defendants.

52. Mr. Leon Haywood Jr. physical injuries were of a kind and death were reasonably foreseeable as a result of the breaches of duty committed by individual Defendants.

53. The actions of the Individual Defendants were intentional, wanton, malicious, oppressive, reckless, and callously indifferent to the rights of Mr. Leon Haywood Jr. Individual Defendants acted for a purpose other than bringing Mr. Leon Haywood Jr.to justice.

54. At all times mentioned herein, Corporal Fowler acted while driving a Missouri State Highway Patrol-owned vehicle within the course and scope of his employment with the Missouri State Highway Patrol.

55. The Missouri State Highway Patrol is liable for the negligence of Corporal Fowler under the doctrine of Respondeat Superior.

56. At all times mentioned herein, Patrolman Litterall, Sergeant Weiss, and Patrolman Benjamin acted while driving vehicles owned by the City of Pevely, Mo., within the course and scope of their employment with the City of Pevely Missouri.

57. The City of Pevely Missouri is liable for the negligence of Patrolmen Litterall, Sergeant Weiss, and Patrolman Benjamin under the doctrine of Respondeat Superior.

58. The negligent acts alleged herein arise out of the operation of a motor vehicle by public employees within the course of their employment.

59. Sovereign immunity is waived pursuant to RSMO § 537.600.1.

60. Upon information and belief, Defendant Missouri State Highway Patrol has purchased liability insurance for the types of incidents alleged in this Petition.

61. Upon information and belief, Defendant City of Pevely, Missouri, purchased liability insurance for the types of incidents alleged in this Petition.

62. Sovereign immunity is waived pursuant to RSMO § 537.610.

COUNT II
42 U.S.C. § 1983, Unreasonable Search and Seizure Against Defendants Fowler, Litterall, Weiss, and Benjamin

63. Plaintiffs re-allege and incorporate by reference all preceding paragraphs.

64. Mr. Leon Haywood Jr. claims damages under 42 U.S.C. § 1983 for injuries set forth above against Defendants Fowler, Litterall, Weiss, and Benjamin ("Individual Defendants") for violation of his right to be free from unreasonable search and seizure.

65. Upon the Ford Explorer's initial full and complete stop in response to the traffic stop, Mr. Leon Haywood Jr. was seized for Fourth Amendment purposes. The seizure of Mr. Leon Haywood Jr. continued through the shows of authority, shows of force, and application of force by law enforcement and the foreseeable actions of third parties in response to law enforcement.

66. In their pursuit of an 18-year-old who allegedly committed a traffic infraction, the Individual Defendants acted unreasonably and with excessive force under the circumstances as to Mr. Leon Haywood Jr. Such actions resulted in the death of Mr. Leon Haywood Jr.

67. If Plaintiffs prevails, they are entitled to an award of attorney fees pursuant to 42 U.S.C. § 1988.

COUNT III
42 U.S.C. § 1983, Due Process Violation
Against Defendants Fowler, Litterall, Weiss, and Benjamin

68. Plaintiffs re-allege and incorporates by reference all preceding paragraphs.

69. Plaintiffs claim damages under 42 U.S.C. § 1983 for the death of Leon Haywood Jr. as set forth above against Individual Defendants for violation of his Due Process Rights.

70. Individual Defendants' actions so restrained the liberty of Mr. Leon Haywood Jr. that it rendered him unable to care for himself.

71. Defendants' affirmative actions subjected Mr. Leon Haywood Jr. to state-created danger and increased Mr. Leon Haywood Jr's vulnerability to danger from private action beyond its level without state action. Such dangers resulted in Mr. Leon Haywood Jr's injuries and death.

72. If Plaintiffs prevails, they are entitled to an award of attorney fees pursuant to 42 U.S.C. § 1988.

COUNT IV
42 U.S.C. § 1983 Against Defendant
City of Pevely, Missouri

73. Plaintiffs re-allege and incorporate by reference all preceding paragraphs.

74. Prior to May 11, 2014, the City of Pevely, Mo., through the Pevely Police Department, developed and sustained policies and/or customs exhibiting deliberate indifference to the constitutional right of persons in Missouri, resulting in violation of Leon Haywood Jr's rights described above.

75. It was the policy and/or custom of the City of Pevely, Mo., through the Pevely Police Department, to fail to exercise reasonable care in hiring and training of its police officers, including Defendants Litterall, Weiss, and Benjamin, thereby failing to adequately discourage further constitutional violations on the part of its police officers and resulting in violation of Leon Haywood Jr's rights described above.

76. It was the policy and/or custom of the City of Pevely Missouri through the Pevely Police Department, to disregard the rights and safety of passengers in pursued vehicles and/or to conduct pursuits in a manner contrary to the United States Constitution.

77. The policies and customs of the City of Pevely Missouri proximately caused the deprivation of Leon Haywood Jr's federally protected rights.

78. If Plaintiffs prevails, they are entitled to an award of attorney fees pursuant to 42 U.S.C. § 1988.

COUNT V
42 U.S.C. § 1983 Against Defendant Missouri Highway Patrol and Defendant Ronald Replogle

79. Plaintiffs re-allege and incorporate by reference all preceding paragraphs.

80. Prior to May 11, 2014, the Missouri State Highway Patrol, under the authority of Ronald Replogle, developed and sustained policies and/or customs exhibiting deliberate indifference to the constitutional right of persons in Missouri, resulting in violation of Plaintiff's rights described above.

81. It was the policy and/or custom of the Missouri State Highway Patrol, under the authority of Ronald Replogle, to fail to exercise reasonable care in hiring and training of its police officers, including Defendant Fowler, thereby failing to adequately discourage further constitutional violations on the part of its police officers and resulting in violation of Plaintiff's rights described above.

82. It was the policy and/or custom of the Missouri State Highway Patrol., under the authority of Ronald Replogle, to disregard the rights and safety of passengers in pursued vehicles and/or to conduct pursuits in a manner contrary to the United States Constitution.

83. The policies and customs of the Missouri State Highway Patrol proximately caused the deprivation of Mr. Leon Haywood Jr's. federally protected rights.

84. If Plaintiffs prevail, they are entitled to an award of attorney fees pursuant to 42 U.S.C. § 1988.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests this Court enter a judgment in favor of Plaintiffs and against Defendants, award Plaintiffs compensatory and punitive damages against Defendants, award Plaintiffs' counsel reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable provisions of law, and grant Plaintiff such other and further relief as may be just and proper under the circumstances.

JURY TRIAL DEMAND

Plaintiff demands a jury trial as to all claims.

Law Office of Tommie A. Harsley III
Respectfully Submitted,

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